NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 38. BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

PREAMBLE

1. Sections Affected — **Rulemaking Action**

R4-38-101	Repeal
R4-38-101	New Section
R4-38-102	Repeal
R4-38-102	New Section
R4-38-103	Repeal
R4-38-103	New Section
R4-38-104	Renumber
R4-38-104	New Section
R4-38-105	Repeal
R4-38-105	Renumber
R4-38-105	Amend
R4-38-106	Repeal
R4-38-106	New Section
R4-38-107	Amend
R4-38-108	Amend
R4-38-109	Amend
R4-38-110	Repeal
R4-38-111	Amend
R4-38-112	Amend
R4-38-113	Amend
R4-38-114	Amend
R4-38-115	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 32-2901, 32-2904(B)(1), 32-2912, 32-2913, 32-2914, 32-2932, and 32-2933

3. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 9 A.A.R 5241, December 5, 2003

4. The name and address of agency personnel with whom persons may communicate regarding the rules:

Name: Chris Springer, Executive Director

Address: 1400 W. Washington, Room 230
Phoenix, AZ 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

5. An explanation of the rule, including the agency's reasons for initiating the rules:

R4-38-101. Defines terms used in the Chapter.

R4-38-102. Establishes guidelines for acceptance of applicants who have not graduated from an approved school of medicine. (Replaces R4-38-102.)

R4-38-103. Describes the manner and content of postgraduate studies in homeopathic practice for which an applicant seeks approval. (Replaces R4-38-102.)

R4-38-104. Establishes guidelines for approval of a preceptorship in lieu of formal training to meet post graduate training requirements. (Replaces R4-38-103.)

R4-38-105. Establishes fees to provide revenue for the Board's activities. (Replaces R4-38-104.) The Board has proposed to raise some of the fees with respect to the application for physician license, the issuance of license fee, the fee for annual renewal, the application to supervise a medical assistant, and the annual renewal of medical assistant fee. Fees have not been raised since 1995.

R4-38-106. Prescribes general guidelines for examinations. (Replaces R4-38-105 and 106.)

R4-38-107. Defines the criteria for granting of waivers from the written examination. (Replaces R4-38-107.)

R4-38-108. Requires that licensees report address changes. (Replaces R4-38-108.)

R4-38-109. Establishes standards for experimental forms of diagnosis or treatment. (Replaces R4-38-109.)

R4-38-110. Reserved. (Definition moved to R4-38-101 and more fully elaborated in R4-38-109.)

R4-38-111. Establishes guidelines for the initiation of peer review committees for examination of experimental forms of diagnosis or treatment and the guidelines for conducting a review.

R4-38-112. Establishes the procedure for registering compliance of use of experimental forms of diagnosis and treatment.

R4-38-113. Establishes guidelines specifically for the practice of chelation therapy, including recordkeeping, patient follow-up, and peer review requirements.

R4-38-114. Outlines the procedure and criteria for requesting a rehearing or review of a Board decision.

R4-38-115. Clarifies the proper use of abbreviations for educational background and Arizona medical practice licensure by homeopathic physicians.

6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rules or proposes not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

R4-38-103 may have a medium impact on the Board by increasing the pool of applicants making an application for license. It will not impact the consumer financially and will provide a larger pool of licensed physicians that the public will have access to. Each physician who applies for licensure must provide evidence of 300 hours of post-graduate education in treatment modalities defined in A.R.S. § 32-2901(22) which describes the practice of homeopathic medicine in Arizona. The changes clarify what types of education and training will qualify an applicant for licensure and prescribe the evidence the applicant must supply with the initial application.

In order to continue its licensing functions, the Board has determined that it must increase fees. The fee for an application for license is being raised from $250 to $500 dollars. The issuance of initial license fee is being raised from $200 to $250 dollars. Annual renewal of license is being raised from $425 to $600 and the penalty for late renewal of license is being raised from $250 to $350 dollars. An application to supervise a medical assistant is being raised from $150 to $200 and the annual renewal for registration of the medical assistant is being raised from $50 to $100. R4-38-105 may have a medium impact if the fees as shown here are approved. It is anticipated that increased revenue to the Board may approximate $9000. This is considered a moderate increase and must be weighed against the need for the Board to respond to more complex complaints, legal challenges and the expanded requirements of regulatory reports. The Board has not raised fees since 1995. It is possible the physician may pass on increased costs related to the annual license to the consumer. The cost/revenue change would be minimal and less than $1,000 especially when considered in light of a small increase in overhead to recoup the cost.

The proposed rule R4-38-104 is intended to clarify language describing the method by which an applicant would apply for license and meet the post graduate education requirement by completing a preceptorship. No increased costs would be passed on to either the physician or consumer by this change. The applicant would benefit by having a more definite set of criteria by which to supply the requested information.

No increased costs are associated with the implementation of R4-38-106 relating to examinations. The proposed rule defines criteria for the conduct of the written and oral examinations required for licensure. R4-38-107 describes how an applicant may apply for a waiver of the written examination. There are no increased costs associated with this proposal.

The proposed changes to R4-38-108 through R4-38-115 involve amendments to refine and clarify language relating to notification of address changes, the use of experimental forms of diagnosis and treatment, peer review requirements, how a licensee would register experimental forms of diagnosis and treatment, chelation therapy practice requirements, rehearing or review of decisions, and a licensees use of title and abbreviation. These amendments will not increase costs to the licensee or the consumer.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Chris Springer, Executive Director

Address: 1400 W. Washington, Room 230
Phoenix, AZ 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

An oral proceeding will be conducted by the Board at the following location in the state for the purpose of taking oral and written testimony on the proposed rules from members of the public.

Date: January 13, 2004

Time: 1:00 p.m.

Location: 1400 W. Washington, B-1 Conference Room
Phoenix, AZ 85007

The public record on the proposed rulemaking will close at 5:00 p.m. on January 13, 2004. Written comments may be sent to the following individual at the indicated address.

Name: Chris Springer, Executive Director

Address: 1400 W. Washington, Room 230
Phoenix, AZ 85007

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 38. BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

ARTICLE 1. GENERAL

Section

R4-38-101. ~~Standards for Applicants Not Holding Degrees from a College or University Approved by the Board~~ Definitions
R4-38-102. ~~Standards for Approval of Post Graduate Courses and Homeopathic Educational Institutions~~ Additional Requirements for Applicants Graduated from an Unapproved School of Medicine
R4-38-103. ~~Standards for Approval of Internships and Preceptorships~~ Approval of Postgraduate Coursework or Training
R4-38-104. Approval of Preceptorship
~~R4-38-105. Procedure for Conducting Licensing Examinations and Setting the Passing Grade~~
~~R4-38-104.~~ R4-38-105. Fees
R4-38-106. ~~Procedure for Conduct of Personal Interview~~ Examinations
R4-38-107. ~~Waiver of Examination~~ Waiver of Written Examination
R4-38-108. ~~Notification of Address~~ Notification of Address Changes
R4-38-109. Experimental Forms of Diagnosis and Treatment

ARTICLE 1. GENERAL

R4-38-101. ~~Standards for Applicants Not Holding Degrees from a College or University Approved by the Board~~ Definitions

~~**A.** "Approved school of medicine" means any school or college operating a course of study which upon successful completion results in a Degree of Doctor of Medicine or a Doctor of Osteopathy and whose course of study has been approved or accredited by the American Institute of Homeopathy, the Association of American Medical Colleges, the Association of Canadian Medical Colleges, the American Medical Association, or the American Osteopathic Association.~~

~~**B.** An applicant who has graduated from an unapproved school of medicine shall meet the following requirements:~~

~~1. Be the holder of a standard certificate issued by the Educational Council for Foreign Medical Graduates, or~~

~~2. Successfully complete an approved Fifth Pathway Program of 12 months supervised clinical training under the direction of an approved school of medicine in the United States in addition to documentation granted by a foreign school of medicine signifying completion of all of the formal requirements for graduation from such foreign medical school except internship or social service training or both.~~

In addition to the definitions at A.R.S. § 32-2901, in this Chapter:

1. "Beneficial clinical usage of therapy modalities" means that usage results of a therapy modality or treatment are documented by:
   a. Clinical reports from national or international organizations;
   b. Professionally recognized publications of clinical indications and contraindications;
   c. National or international instructional courses providing training in the use of the therapy modality or treatment; or
   d. Professional peer review presentations of physicians' usage results with the therapy modality or treatment at local, county, state, national or international meetings.
2. "Classical homeopathy" means a system of medical practice expounded by Samuel Hahneman in the Organon of Medicine that treats a disease by the administration of minute doses of a remedy that would in healthy persons produce symptoms of the disease treated.
3. "Complex homeopathy" means a system of medical practice that combines one or more homeopathic remedies and not described in the Organon of Medicine".
4. "EAV" means electric acupuncture according to Voll.
5. "Fifth Pathway program" means an academic program created by the Council on Medical Education of the American Medical Association specifically for American medical students studying abroad.
6. "Generally accepted experimental criteria in homeopathy" means:
   a. A protocol in which the therapy modality or treatment is administered in the smallest amount necessary to stimulate a healing response with a minimum of clinical aggravation of symptoms or side effects;
   b. A process of recording the clinical efficacy reflected by measurements of symptom aggravation or improvement, laboratory testing, and changes in physiologic functioning; or
   c. A process by which innovative diagnostic procedures and devices are analyzed and evaluated according to their ability to assist the physician in assessing the degree of electrical resistance or conduction disturbance in the totality of the patient's presenting signs, symptoms, and physiologic responses; and predict or monitor the totality of a patients responses to a therapy modality or treatment.
7. "Homeopathic indication" means a recognized standard of practice of holistic and alternative practitioners that describes a sign, symptom, and physical finding that leads to the recommendation of a particular substance or therapeutic procedure.
8. "Metal poisoning" means a level of toxic metals present in a patient that in the professional judgment of the licensee is inconsistent with the patient's ability to achieve optimal health.
9. "Proving method of administration" means a homeopathic drug testing on health volunteers where symptoms that develop are recorded, compiled, and organized into a repertory.
10. "Repertory" means a compilation, usually in book form, where information is categorized by the different systems of the body and provides an index of symptoms which lists homeopathic remedies.
11. "Rubric" means a guiding symptom leading to a homeopathic remedy.

R4-38-102. ~~Standards for Approval of Post Graduate Courses and Homeopathic Educational Institutions~~ Additional Requirements for Applicants Graduated from an Unapproved School of Medicine

~~A.~~ ~~Applicants for licensure who submit a diploma of Doctor in Medicine in Homeopathy issued by a homeopathic college or other educational institution shall submit a certified statement of their course work and content if their institution has not been previously approved by the Board or accredited for this course of study by an educational or professional association recognized by the Board including the Association of American Medical Colleges, the Association of Canadian Medical Colleges, or the American Institute of Homeopathy.~~

~~B.~~ ~~An applicant shall submit certificates of attendance and completion of post graduate courses and a summary of such work, as required by this Section, on the application form supplied by the Board.~~

~~C.~~ ~~Attendance at a course of homeopathic post graduate medical education consisting of 90 hours or more of formal training in homeopathy offered by an institution approved by the Board or the American Institute of Homeopathy will satisfy the post graduate course requirements for applicants.~~

~~D.~~ ~~Course work not previously approved by the Board will be evaluated upon submission by applicant according to the course content, which includes case-taking, repertory use, materia medica, homeopathic philosophy and history, acute remedies, constitutional prescribing, posology, homeopathy prescription policies, remedy handling policies, and homeopathic laws.~~

~~E.~~ ~~An applicant whose previous homeopathic practice as defined in A.R.S. § 32-2901(A)(4) has been devoted 50% or more to complementary modalities other than the classical homeopathy of micro-dose substances prescribed by the law of similars, shall submit evidence of a combined total of three hundred hours of post graduate training in one or more of these modalities including a minimum of 40 hours of formal training in an approved course in classical homeopathy. These modalities as defined in A.R.S. § 32-2901 include acupuncture, neuromuscular integration, orthomolecular therapy, nutrition or chelation therapy.~~

~~F.~~ ~~Applicants who have submitted a preceptorship in Homeopathic Medicine may submit documentation of such preceptorship for consideration by the Board according to the criteria in subsection (B) above as an approved course of post graduate training. A preceptorship is an extended period of individual study with one or more experienced homeopathic physicians or institutions.~~

In addition to the requirements for a license prescribed in A.R.S. § 32-2912, an applicant who has not graduated from an approved school of medicine shall:

1. Hold a standard certificate issued by the Educational Council for Foreign Medical Graduates; or
2. Complete a Fifth Pathway program of one academic year of supervised clinical training under the direction of an approved school of medicine in the United States and successfully complete an approved twenty-four month internship, residency or clinical fellowship program upon completion of the Fifth Pathway program; or
3. Complete 36 months of an approved hospital internship, residency or a clinical fellowship program as defined in A.R.S. § 32-2901(3).

R4-38-103. ~~Standards for Approval of Internships and Preceptorships~~ Approval of Postgraduate Coursework or Training

~~A.~~ ~~An "approved internship" means that the applicant has completed training in a hospital which was approved for internship, fellowship or residency training by the Council on Medical Education in Hospitals of the American Medical Association, the Association of American Medical Colleges, the Royal College of physicians and Surgeons of Canada, the American Osteopathic Association or any similar body in the United States or Canada whose function is that of approving hospitals for internship, fellowship or residency training.~~

~~B.~~ ~~Completion of a preceptorship may not substitute for completion of an approved internship, residency or fellowship program.~~

A. As part of the application process, an applicant for a license as a homeopathic physician shall designate on a form supplied by the Board, at least 300 hours of postgraduate education completed by the applicant that meets the requirements of A.R.S. § 32-2912(D)(3) and that provides education in one or more of the treatment modalities defined in A.R.S. § 32-2901(22). To receive credit for the postgraduate coursework the following documentation indicated below shall be submitted with the application:

1. A statement showing completion of Board approved coursework and a brief description of its content; and
2. A certificate of attendance showing evidence of the number of hours successfully completed.
3. Coursework not previously approved by the Board will be evaluated on a case by case basis according to the course content, qualifications of the instructors, and Board determination of whether or not the sponsor is recognized within the profession as a provider of training and continuing education.

B. The following treatment modalities as defined in A.R.S. § 32-2901(22) describe the practice of homeopathic medicine in the state of Arizona. The applicant shall have met postgraduate education requirements in a specific treatment modality by supplying at least one of the specified methods of documentation. An applicant meeting the postgraduate education requirements by documentation of three or more years of clinical utilization of a specific treatment modality shall submit notarized letters of recommendation from three individuals familiar with the applicant's clinical practice.

1. Acupuncture:
   a. Classical acupuncture:
      i. Certification by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM); or
      ii. 220 hours of post-graduate courses accredited by a nationally recognized certifying authority approved by the Board; or
      iii. Documentation of three or more years of clinical experience utilizing classical acupuncture and comprising a minimum of 50 percent of the applicant's practice.
   b. Electro-diagnosis:
      i. Completion of at least 50 hours of training in Board-approved courses in electro-diagnosis; or
      ii. Documentation of three or more years of clinical experience utilizing electro-diagnosis as verified by three letters of recommendation submitted with the application.
2. Chelation therapy:
   Completion of a course offered or accredited by the American Board of Chelation Therapy or other nationally recognized certifying authority, determined by the Board to be equivalent.
3. Classical homeopathy:
   a. Completion of at least 90 hours of formal training in classical homeopathy approved by the Board, the Council on Homeopathic Education, the American Institute of Homeopathy, the American Board of Homeotherapeutics, or the Homeopathic Association of Naturopathic Physicians; or
   b. Documentation of three or more years of clinical utilization of classical homeopathy and comprising a minimum of 50 percent of the applicant's practice.
4. Complex homeopathy and electro therapeutics, EAV and related:
   a. Completion of 90 hours of formal training in complex homeopathy approved by the Board, the Council on Homeopathic Education, the American Institute of Homeopathy, The American Board of Homeotherapeutics, the Homeopathic Association of Naturopathic Physicians, or the Council for Homeopathic Certification; or
   b. Documentation of three or more years of clinical utilization of complex homeopathy comprising a minimum of 50 percent of the applicant's practice.
5. Neuromuscular integration:
   a. Completion of a residency or fellowship in physical medicine, or graduation from an osteopathic medical school; or
   b. Completion of at least 220 hours of training in neuromuscular integration therapies approved by the Board; or
   c. Documentation of three or more years of clinical utilization of neuromuscular integration comprising a minimum of 50 percent of the applicant's practice.
6. Orthomolecular therapy and nutrition:
   a. Completion of 300 hours of postgraduate training in orthomolecular therapy and nutrition approved by the Board; or
   b. Documentation of three or more years of clinical utilization of orthomolecular therapy and nutrition comprising a minimum of 50 percent of the applicants practice.
7. General or combined homeopathic practice:
   a. A combined total of 300 hours of postgraduate training in one or more of the modalities show in subsections (B)(1) through (6), including a minimum of 40 hours in classical homeopathy; or
   b. Documentation of three or more years of clinical utilization of general or combined homeopathic practice comprising a minimum of 50 percent of the applicant's practice.

R4-38-104. Approval of Preceptorship

In lieu of formal postgraduate courses, an applicant who attempts to qualify for licensure based on a preceptorship in one or more of the treatment modalities defined in A.R.S. § 32-2901(22) shall submit with the application the following documentation:

1. A notarized affidavit from each preceptor on the preceptor's letterhead attesting to:
   a. The qualifications of the preceptor;
   b. The dates of the preceptorship;
   c. Each treatment modality involved in the training;
   d. The approximate number of hours of training in each treatment modality; and
   e. The general nature of the services performed during the training.
2. A summary from the applicant of each preceptorship including:
   a. The name of each preceptor;
   b. The dates of each preceptorship;
   c. The treatment modalities included in each preceptorship;
   d. The number of hours credit claimed in each modality;
   e. The total number of hours claimed in lieu of formal postgraduate education.

~~**R4-38-105. Procedure for Conducting Licensing Examinations and Setting the Passing Grade**~~

~~**A.** The examination for licensure shall be a written exam with a specified time limit. The Board shall administer a standardized examination or examinations covering items expected to be included in an approved formal post graduate course in homeopathic medicine as defined in R4-38-102(D).~~

~~**B.** The passing grade of the exam is 70%.~~

~~**C.** Applicants shall bring a copy of Kent's Repertory for use as a reference during the examination. Applicants may use other repertories with clinically updated rubrics. In no case may other written material, notes or materia medica references be brought in or used during the examination.~~

~~**R4-38-104.**~~ **R4-38-105. Fees**

~~**A.** The fee for annual renewal of a license is $525.00.~~

~~**B.** The fee for issuance of a duplicate license is $25.00.~~

~~**C.** The fee for a dispensing permit is $200.00 and the annual renewal for such a permit is $150.00.~~

~~**D.** The fee for a copy of minutes to all board meetings during the calendar year is $75.00.~~

~~**E.** The fee for the sale of lists of physicians licensed by the Board is $0.05 per name for private use and $0.25 per name for commercial use.~~

~~**F.** The fee for copying records, documents, letters, minutes, applications, and files is $0.25 per page.~~

~~**G.** The fee for copying audio tapes is $35.00 per tape.~~

~~**H.** The fee for the sale of computerized tapes or diskettes not requiring programming is $100.00.~~

The Board may charge the following fees according to A.R.S. §§ 32-2914 and 32-1916:

1. Application for license: $500.00
2. Issuance of initial license: $250.00
3. Annual renewal of license: $600.00
4. Late renewal penalty: $350.00
5. Application for dispensing permit: $200.00
6. Annual renewal of dispensing permit: $150.00
7. Locum tenens registration application: $200.00
8. Locum tenens registration renewal: $100.00
9. Application for registration to conduct a practical education course for supervised medical assistants: $150.00
10. Annual renewal of registration to conduct a practical education course: $50.00
11. Initial application for supervision of medical assistant: $200.00
12. Triennial renewal of supervision of medical assistant: $50.00
13. Annual renewal for registration of medical assistant: $100.00
14. Annual directory: $25.00
15. Copies, per page: $0.25
16. Copies, per audio tape: $35.00
17. Copies, per 1.44 M computer disk: $100.00
18. Mailing lists - non-commercial (per name): $0.05
19. Mailing lists - commercial (per name): $0.25
20. Mailing list labels (per name): $0.30
21. Copy of statutes or rules, each: $5.00

R4-38-106. ~~Procedure for Conduct of Personal Interview~~ Examinations

~~**A.** The personal interview conducted by the Board shall be conducted so as to acquaint the Board with the applicant's personal history, philosophy and approach to homeopathic medical practice. To this end the Board may require the applicant to review a clinical case history drawn from a file established by the Board for this purpose and present to the Board a summary of how the applicant would proceed with the clinical management of the sample case.~~

~~**B.** The Board shall ask any questions which will clarify to the satisfaction of the Board any issues regarding the applicant's practice record which may reflect on his or her competence to safely engage in the practice of medicine, clarify any questions of unprofessional conduct in the applicant's professional record, and clarify whether the scope of the applicant's homeopathic practice falls within the definition of A.R.S. § 32-2901(A)(4).~~

A. The examination for license shall consist of three parts:

1. A timed written examination that the applicant obtains a passing grade of 70% and which includes questions the Board deems appropriate for the category of postgraduate homeopathic medicine listed in R4-38-103 and similar to those expected to be included in an approved postgraduate course in homeopathic medicine as specified in R4-38-103; and
2. An oral examination on one or more of the treatment modalities based on an actual clinical case history. The applicant shall present to the Board a summary of the clinical management of the sample case; and

3. A personal interview with the Board to examine the applicant's personal and professional history as it applies to homeopathic medicine. The Board may ask questions to clarify issues regarding the applicant's competence to safely engage in the practice of medicine, unprofessional conduct in the applicant's professional record, and whether the scope of the applicant's practice falls within the definition of homeopathic medicine.

B. An applicant who has applied for licensure and specified classical homeopathy as meeting postgraduate education requirements may use a copy of Kent's Repertory or other repertory with clinically updated rubrics as a reference during the examination. A computer or other written material may not be used during the examination.

R4-38-107. ~~Waiver of Examination~~ Waiver of Written Examination

~~A.~~ ~~No waiver may be issued without completion of a personal interview.~~

~~B.~~ ~~For applicants requesting waiver under A.R.S. § 32-2912(C)(1)(a), Verification of competency, the Board will consider the nature of the applicant's previous three years of homeopathic practice and the nature of the treatment methodology (homeopathic modalities) used in that practice. If the Board so determines, based on information obtained in the personal interview, that this practice constitutes a primarily homeopathic practice experience under the definition of such practice in Arizona law, then waiver may be granted.~~

~~C.~~ ~~In cases where applicant requests waiver under A.R.S. § 32-2912(C)(1)(b), Recognition of homeopathic licensure, the Board will consider the nature of the examination and testing procedures used in the licensing jurisdiction as well as the information obtained in the personal interview in determining whether the applicant qualifies for a waiver.~~

A. The following applies to applicants requesting waiver under A.R.S. § 32-2913(A):

1. The Board shall not issue a license based on a waiver of the written examination without completion of an oral examination and a personal interview.
2. At the Board's discretion, an oral examination and personal interview may be conducted by a telephone conference call with a majority of the Board present.

B. Based on the application, the oral examination, and the personal interview, the Board shall determine if the applicant qualifies for a waiver.

R4-38-108. ~~Notification of Address~~ Notification of Address Changes

~~Any licensee establishing a new office or changing his office address in the State of Arizona shall notify the Board in writing within 45 days of the opening of such new office and notify the Board within 45 days of any change in office or residence, and office or residence telephone number.~~

A homeopathic physician shall advise the Board in writing within 45 days of opening an additional office address, change in office address, change in home address, or change in telephone number.

R4-38-109. Experimental Forms of Diagnosis and Treatment

A. The Board neither approves nor advocates specific ~~innovative~~ experimental therapies. ~~but~~ The Board ~~recognizes~~ considers the ~~following~~ standards in this Section in ~~for~~ determining if a licensee~~s~~ ~~are~~ is in compliance with A.R.S. ~~Section~~ § 32-2933(27). ~~Nothing in this Rule shall be interpreted to authorize activity~~ The Board considers a therapy that is in violation of applicable Arizona state or federal statutes, or rules or regulations regarding drugs and devices to be unprofessional conduct under A.R.S. § 32-2933(27).

B. ~~For the purposes of this Chapter, an experimental form~~ Experimental forms of diagnosis or treatment, that are subject to the restrictions ~~and public protections~~ of A.R.S. ~~Section~~ § 32-2933(27), ~~includes~~ include:

1. Administration of a pharmaceutical agent untested for safety in humans;
2. The use of physical agents or electromagnetic currents or fields in a manner not supported by established clinical usage; and
3. ~~Innovative~~ Experimental therapy modalities and diagnostic methods that are not included in the ~~definition~~ practice of homeopathic medicine as defined in A.R.S. ~~Section~~ § ~~32-2901(A)~~ 32-2901(22) and do not meet the criteria of subsection (C) ~~below~~.

C. ~~For the purposes of this Chapter, the~~ The following are not ~~considered to be~~ an experimental form~~s~~ of diagnosis or treatment under A.R.S. § 32-2933(27):

1. A ~~Substance~~ substance or therapy ~~modalities~~ modality administered on a homeopathic indication~~s~~ that ~~have~~ has been in beneficial clinical usage by professionally trained, legally qualified physicians for at least ten years.
2. Homeopathic ~~drugs~~ medications listed in the Homeopathic Pharmacopoeia of the United States.
3. Homeopathic ~~drug preparations~~ medications ~~which~~ that have been characterized by toxicity studies, or by the "proving" method of administration ~~to~~ on healthy volunteers, to determine ~~their~~ the medication's spectrum of action.
4. Administration of a pharmaceutical agent~~s~~ for a therapeutic indication supported by clinical usage ~~where such~~ if the agent~~s~~ ~~have already~~ is ~~received~~ ~~approval~~ approved to be marketed publicly for other therapeutic indications by the appropriate regulatory agency; and
5. A procedure used for patient education, preventative medicine, or general health assessment or enhancement such as bio-terrain analysis, live blood analysis, soft laser, magnetic therapy, oxidative therapy, and microelectric therapy, and other procedures as determined by the Board.

~~**D.** For the purposes of this Chapter, beneficial clinical usage by physicians of therapy modalities means that such beneficial usage is documented by national or international clinical reports of therapeutic results, or by professionally recognized publications of clinical indications and contraindications, or by organized national or international instructional courses offered in the use of the modality or treatment, or by presentation of physicians' experience with the therapy at national or international professional meetings.~~

R4-38-110. ~~Generally Accepted Experimental Criteria~~ Repealed

~~For the purposes of this Chapter, generally accepted experimental criteria in homeopathy mean:~~

~~1. A protocol in which the treating modality is administered in the smallest amount necessary to stimulate a healing response with a minimum of clinical aggravation or "side effects."~~
~~2. Records for documentation of clinical efficacy which reflect measurement of symptom improvement, laboratory testing, and improvement in parameters of physiologic functioning.~~
~~3. Innovative diagnostic procedures and devices are to be analyzed and evaluated according to their ability to assist the physician in assessing the degree of disturbance in the totality of the patient's presenting signs, symptoms and physiologic responses. The procedures and devices are also evaluated according to their ability to predict or monitor the totality of responses to a given therapeutic intervention or program.~~

R4-38-111. Peer Review

A. Licensees ~~who use~~ using an experimental form~~s~~ of diagnosis and treatment such as vaccine therapy for cancer without affiliation with a recognized research institution, institutional review board, or peer review ~~agency~~ committee may request or the Board may require review of ~~the procedure in question~~ the procedure by the Board or a Board-appointed peer review committee.

B. The ~~committee~~ review shall include ~~a review~~ examination of protocols, recordkeeping, ~~analysis~~ analyses of results, and informed consent forms and procedures. Based on the ~~peer~~ review ~~report~~, the Board shall determine the licensee's compliance with generally accepted homeopathic experimental criteria under A.R.S. § 32-2933(27).

C. As used in A.R.S. § 32-2933(27), "periodic review by a peer review committee" means peer review for compliance with any form of experimental medicine shall occur at a minimum of five-year intervals through an appropriate institutional review committee or a peer review committee, the chairperson of which shall be appointed by the Board president and approved by the Board.

D. The Board may require the licensee to submit consent forms and protocols during a review of a licensee's use of experimental forms of diagnosis and treatment or at any other time the Board deems appropriate.

R4-38-112. ~~Procedure for Registering Compliance of Use of Experimental Forms of Diagnosis and Treatment~~ Registering Use of Experimental Forms of Diagnosis and Treatment

At the time of initial licensing and at subsequent annual renewal periods, ~~physicians~~ a licensee shall designate on a form provided by the Board ~~document~~ the modalities of treatment used in ~~their~~ the licensee's practice, ~~as well as any experimental~~ and forms of diagnosis and treatment used by the licensee ~~which~~ that ~~have been~~ are defined as experimental by ~~legislative action~~ statute or ~~Board action~~ R4-38-109.

R4-38-113. ~~Protocol for~~ Chelation Therapy Practice Requirements

~~A.~~ ~~Physicians~~ Licensees engaging in chelation therapy for other than the treatment of metal poisoning ~~as part of their homeopathic practice~~ shall: ~~document~~

1. Document ~~post-graduate~~ completion of the postgraduate education ~~requirements equivalent to those established for eligibility for certification by the American Board of Chelation Therapy~~ required in R4-38-103(B)(2);
2. Establish and maintain detailed records on patients consistent with protocols that the licensee has filed with the Board.

~~B.~~ ~~Physicians engaging in chelation therapy shall keep detailed records for patients undergoing chelation therapy, which shall include the following:~~

~~1. Documentation of form and nature of pre-therapy counselling.~~
~~2. Diagnostic and pathologic categorization of patient's problem.~~
~~3. Documentation of pre-therapy testing including history and physical, subjective symptomatology, laboratory evaluations and consultation reports appropriate to the patient's pathologic diagnosis.~~
~~4. Evidence of periodic monitoring of therapy at an interval appropriate for the acuteness of patient's condition at a minimum of every nine treatments or every two months. Such monitoring includes physiologic measurements, complications of treatment, progress in symptoms and additional comments.~~
~~5. Post-therapy testing including subjective evaluation, physiologic testing and laboratory results appropriate for the patient's complaint to be done at three, six and 12 months following treatment or during the course of treatment.~~

~~C.~~ ~~Periodic analysis of chelation therapy results shall occur at six-month intervals with at least the following analysis of results:~~

~~1. Minimal improvement.~~

2. ~~Marked improvement.~~
3. ~~Worse.~~
4. ~~Lost to follow-up.~~
5. ~~Refused follow-up.~~

~~D.~~ ~~Peer review for compliance with the above protocol shall occur at a minimum of annual intervals through an appropriate institutional review committee or a peer review committee designated by the Board.~~

R4-38-114. Rehearing or Review of Decision

A. Except as provided in subsection (G), any party ~~in a~~ to an appealable agency action of a contested case before the Board who is aggrieved by a decision rendered in ~~such~~ the case may file with the Board not later than ~~ten~~ 30 days after service of the decision, a written motion for rehearing or review of the decision, specifying the particular grounds ~~therefore~~ for the motion. A decision ~~shall be deemed to have been~~ is served when personally delivered or ~~mailed by certified mail~~ five days after the date the decision is mailed to the party at ~~his~~ the party's last known residence or place of business.

B. A motion for rehearing under this ~~rule~~ Section may be amended at any time before ~~it is ruled upon by~~ a ruling by the Board. ~~A response may be filed within ten days after service of such motion or amended motion by any other party.~~ Any other party may file a response within fifteen days after the motion or amended motion is filed. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

C. A rehearing or review of the decision may be granted for any of the following ~~causes~~ reasons materially affecting the moving party's rights:

1. Irregularity in the administrative proceedings of the ~~agency~~ Board, or ~~its~~ the hearing officer, ~~or the prevailing party,~~ or any order or abuse of discretion, ~~whereby~~ that results in the moving party ~~was~~ being deprived of a fair hearing;
2. Misconduct of the Board or the ~~prevailing~~ non-moving party;
3. Accident or surprise ~~which~~ that could not have been prevented by ordinary prudence;
4. Newly discovered material evidence ~~which~~ that with reasonable diligence could not ~~with reasonable diligence~~ have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
7. ~~That the~~ The decision is not justified by the evidence or is contrary to law.

D. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify ~~with particularity~~ the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters ~~so specified~~.

E. Not later than ~~ten~~ 30 days after a decision is rendered, the Board may on its own initiative may order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting ~~such~~ a the rehearing shall specify the grounds ~~therefore~~ for the rehearing.

F. When a motion for rehearing is based upon an affidavit~~s~~, ~~they~~ it shall be served with the motion. An opposing party, may within ~~ten~~ 10 days after ~~such~~ service, may serve an opposing affidavit~~s. which~~ The Board may extend the period ~~may be extended~~ for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. A ~~Reply~~ reply affidavit~~s~~ may be permitted.

G. If ~~in a particular decision~~ the Board makes specific findings that the immediate effectiveness of ~~such~~ the decision is necessary for the immediate preservation of the public peace, health ~~and~~ or safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any ~~applicant~~ application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.

H. ~~For purposes of this Section, the~~ The terms "contested case" and "party" as used in this Section are defined in A.R.S. § 41-1001. The term "appealable agency action" is defined in A.R.S. § 41-1092.

R4-38-115. Use of Title and Abbreviation

A. The use of ~~abbreviations~~ the abbreviation ~~"H.P." and~~ "M.D.(H.)," (with or without the periods), ~~are~~ is ~~recognized as~~ equivalent to the ~~full~~ written designation, ~~"Homeopathic Physician" and~~ "Doctor of Medicine (Homeopathic)".

~~B.~~ ~~Physicians practicing in Arizona under the auspices of the Homeopathic Board who are not also licensed by the Board of Medical Examiners or the Board of Osteopathic Examiners in Medicine and Surgery in this state may only use the designation, "M.D."or "D.O." to indicate their educational training if such use of initials is uniformly accompanied by the full, written designation, "Homeopathic Physician".~~

B. Homeopathic physicians practicing in this state but not licensed by the Arizona Board of Medical Examiners or the Arizona Board of Osteopathic Examiners in Medicine and Surgery shall not use any designation other than the initials MD or DO to indicate a doctoral degree, which shall be followed by the full, written designation, "Homeopathic Physician."

~~**C.** Physicians practicing under dual licensure between either the Allopathic or the Osteopathic Board and the Homeopathic Board shall use either the designation "Homeopathic Physician", "Doctor of Medicine (Homeopathic)", or one of the two approved abbreviation terms in all professional capacities, along with the appropriate "M.D." or "D.O." designation.~~

C. A physician licensed by this Board and any state Board of Medical Examiners or this Board and any state Board of Osteopathic Examiners in Medicine and Surgery shall use one of the following designations as appropriate with or without periods:

1. "MD, MD(H)" or "DO, MD(H)";
2. "MD, Homeopathic Physician" or "DO, Homeopathic Physician"; or
3. "MD, Doctor of Medicine (Homeopathic)" or "DO, Doctor of Medicine (Homeopathic)".

D. ~~All~~ A ~~physicians~~ licensee practicing in Arizona who has received a homeopathic license ~~under a license by the Arizona Board of Homeopathic Medical Examiners~~ shall display ~~post~~ the license, or an official duplicate license, in a ~~visible~~ conspicuous location in the reception area of each office facility~~, a sign which states, "Dr._____ is licensed by the Arizona Board of Homeopathic Medical Examiners". Such sign shall be a minimum of four inches by six inches in size, and it may also state any additional licensures or certifications under which the Homeopathic Physician is practicing.~~

~~**E.** Deadline for compliance shall be six months after the effective date of this rule.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ARIZONA LONG-TERM CARE SYSTEM

PREAMBLE

1. Sections Affected — **Rulemaking Action**

R9-28-101	Amend
R9-28-103	Amend
R9-28-306	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 36-2932

Implementing statute: A.R.S. § 36-2932

3. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 9 A.A.R. 4013, September 12, 2003

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Barbara Ledder

Address: AHCCCS
Office of Legal Assistance
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034

Telephone: (602) 417-4580

Fax: (602) 253-9115

E-mail: proposedrules@ahcccs.state.az.us

5. An explanation of the rules, including the agency's reasons for initiating the rules:

The Administration is amending the rule to clarify the ALTCS reassessment process and to align it with current practice.

6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rules or proposes not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Administration reviewed the Auditor General's report on AHCCCS Sunset Factors, report #02-09, and is relying on recommendations found on page eight in amending the rule. The Auditor General's report noted that the rule does not permit AHCCCS to discontinue medical reassessments indefinitely and recommended a change to the rules if AHCCCS continues to exempt certain members from medical reassessment. AHCCCS is amending the rule to comply with the recommendation of the Auditor General. The report can be found at http://www.auditorgen.state.az.us/.

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The contractors, members, providers, and AHCCCS are nominally impacted by the changes to the rule language. These rules define specific terms used in AHCCCS' long-term care rules and list the criteria for reassessing an ALTCS member's eligibility. AHCCCS is amending these rules to remove definitions for terms no longer found in the rule, to provide flexibility in reassessing ALTCS members, and to make the rules more clear, concise, and understandable.

It is anticipated that the private sector, including small businesses or political subdivisions, will not be impacted since the proposed rule language changes are intended to clarify the existing rules and to streamline the reassessment process. AHCCCS, contractors, providers, and members will benefit from the increased clarity of the rule language. In addition, AHCCCS will benefit from the increased flexibility to direct their staffing resources. Members and their families will benefit as they will not be required to undergo the reassessment process based solely on a time-frame.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Barbara Ledder

Address: AHCCCS
Office of Legal Assistance
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034

Telephone: (602) 417-4580

Fax: (602) 253-9115

E-mail: proposedrules@ahcccs.state.az.us

Proposed rule language will be posted to the AHCCCS web site (www.ahcccs.state.az.us) during the week of November 24, 2003. Please send written comments to the above address by 5:00 p.m., January 12, 2004.

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

Date: January 12, 2004

Time: 1:00 p.m.

Location: AHCCCS
701 E. Jefferson, Gold Room
Phoenix, AZ 85034

Nature: Public Hearing

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ARIZONA LONG-TERM CARE SYSTEM

ARTICLE 1. DEFINITIONS

Section
R9-28-101. General Definitions
R9-28-103. Preadmission Screening Related Definitions

ARTICLE 3. PREADMISSION SCREENING (PAS)

Section
R9-28-306. Reassessments

ARTICLE 1. DEFINITIONS

R9-28-101. General Definitions

A. Location of definitions. Definitions applicable to Chapter 28 are found in the following:

Definition	Section or Citation
"Administration"	A.R.S. § 36-2931
"ADHS"	R9-22-112
"Aggregate"	R9-22-107
"AHCCCS"	R9-22-101
"AHCCCS Registered Provider"	R9-22-101
"Algorithm"	R9-28-104

"ALTCS"	R9-28-101
"ALTCS acute care services"	R9-28-104
"Alternative HCBS setting"	R9-28-101
"Ambulance"	R9-22-102
"Applicant"	R9-22-101
"Bed hold"	R9-28-102
"Behavior intervention"	R9-28-102
"Behavior management services"	R9-20-101
"Behavioral health evaluation"	R9-22-112
"Behavioral health medical practitioner"	R9-22-112
"Behavioral health professional"	R9-20-101
"Behavioral health service"	R9-20-101
"Behavioral health technician"	R9-20-101
"Billed charges"	R9-22-107
"Board-eligible for psychiatry"	R9-22-112
"Capped fee-for-service"	R9-22-101
"Case management plan"	R9-28-101
"Case manager"	R9-28-101
"Case record"	R9-22-101
"Categorically-eligible"	R9-22-101
"Certification"	R9-28-105
"Certified psychiatric nurse practitioner"	R9-22-112
"CFR"	R9-28-101
"Clean claim"	A.R.S. § 36-2904
"Clinical supervision"	R9-22-112
"CMS"	R9-22-101
"Community Spouse"	R9-28-104
"Contract"	R9-22-101
"Contract year"	R9-28-101
"Contractor"	A.R.S. § 36-2901
"County of fiscal responsibility"	R9-28-107
"Covered services"	R9-28-101
"CPT"	R9-22-107
"CSRD"	R9-28-104
"Day"	R9-22-101
"Department"	A.R.S. § 36-2901
"De novo hearing"	42 CFR 431.201
"Developmental disability"	A.R.S. § 36-551
"Diagnostic services"	R9-22-102
"Director"	R9-22-101
"Disenrollment"	R9-22-117
"DME"	R9-22-102
"EPD"	R9-28-301
"Eligible person"	A.R.S. § 36-2931
"Emergency medical services"	R9-22-102
"Encounter"	R9-22-107

"Enrollment"	R9-22-117
"Estate"	A.R.S. § 14-1201
"Facility"	R9-22-101
"Factor"	R9-22-101
"Fair consideration"	R9-28-104
"FBR"	R9-22-101
"Grievance"	R9-22-108
"GSA"	R9-22-101
"Guardian"	A.R.S. § 14-5311
"HCBS" or "Home and community based services"	A.R.S. §§ 36-2931 and 36-2939
"Health care practitioner"	R9-22-112
"Hearing"	R9-22-108
"Home"	R9-28-101
"Home health services"	R9-22-102
"Hospital"	R9-22-101
"ICF-MR" or "Intermediate care facility for the mentally retarded"	42 CFR 483 Subpart I
"IHS"	R9-28-101
"IMD"	42 CFR 435.1009 and R9-28-111
"Indian"	42 CFR 36.1
"Institutionalized"	R9-28-104
"Interested Party"	R9-28-106
"JCAHO"	R9-28-101
"License" or "licensure"	R9-22-101
"Medical record"	R9-22-101
"Medical services"	R9-22-101
"Medical supplies"	R9-22-102
"Medically eligible"	R9-28-104
"Medically necessary"	R9-22-101
"Member"	A.R.S. § 36-2931
"Mental disorder"	A.R.S. § 36-501
"MMMNA"	R9-28-104
"Nursing facility" or "NF"	42 U.S.C. 1396r(a)
"Noncontracting provider"	A.R.S. § 36-2931
"Occupational therapy"	R9-22-102
"Partial care"	R9-22-112
"PAS"	R9-28-103
~~"PASARR"~~	~~R9-28-103~~
"Pharmaceutical service"	R9-22-102
"Physical therapy"	R9-22-102
"Physician"	R9-22-102
"Post-stabilization services"	42 CFR 438.114
"Practitioner"	R9-22-102
"Primary care provider (PCP)"	R9-22-102
"Primary care provider services"	R9-22-102
"Prior authorization"	R9-22-102
"Prior period coverage" or "PPC"	R9-22-107

"Private duty nursing services"	R9-22-102
"Program contractor"	A.R.S. § 36-2931
"Provider"	A.R.S. § 36-2931
"Psychiatrist"	R9-22-112
"Psychologist"	R9-22-112
"Psychosocial rehabilitation"	R9-20-101
"Quality management"	R9-22-105
"Regional behavioral health authority" or "RBHA"	A.R.S. § 36-3401
"Radiology"	R9-22-102
"Reassessment"	R9-28-103
"Redetermination"	R9-28-104
"Referral"	R9-22-101
"Reinsurance"	R9-22-107
"Representative"	R9-28-104
"Respiratory therapy"	R9-22-102
"Respite care"	R9-28-102
"RFP"	R9-22-106
"Room and board"	R9-28-102
"Scope of services"	R9-28-102
"Section 1115 Waiver"	A.R.S. § 36-2901
"Speech therapy"	R9-22-102
"Spouse"	R9-28-104
"SSA"	42 CFR 1000.10
"SSI"	R9-22-101
"Subcontract"	R9-22-101
"Utilization management"	R9-22-105
"Ventilator dependent"	R9-28-102

B. General definitions. In addition to definitions contained in A.R.S. §§ 36-551, 36-2901, 36-2931, and 9 A.A.C. 22, Article 1, the following words and phrases have the following meanings unless the context of the Chapter explicitly requires another meaning:

"ALTCS" means the Arizona Long-term Care System as authorized by A.R.S. § 36-2932.

"Alternative HCBS setting" means a living arrangement approved by the Director and licensed or certified by a regulatory agency of the state, where a member may reside and receive HCBS including:

For a person with a developmental disability specified in A.R.S. § 36-551:

Community residential setting defined in A.R.S. § 36-551;
Group home defined in A.R.S. § 36-551;
State-operated group home under A.R.S. § 36-591;
~~Family foster home under 6 A.A.C. 5, Article 58;~~
Group foster home under R6-5-5903;
Licensed residential facility for a person with traumatic brain injury under A.R.S. § 36-2939;
Adult therapeutic foster home under 9 A.A.C 20, Articles 1 and 15;
Level 2 and Level 3 behavioral health agencies under 9 A.A.C. 20, Articles 1, 4, 5, and 6; and
Rural substance abuse transitional agencies under 9 A.A.C. 20, Articles 1 and 14; and

For a person who is elderly or physically disabled under R9-28-301, and the facility, setting, or institution is registered with AHCCCS:

Adult foster care homes defined in A.R.S. § 36-401 and as authorized in A.R.S. § 36-2939;
Assisted living home or assisted living center, units only, under A.R.S. § 36-401, and as authorized in A.R.S. § 36-2939;
Licensed residential facility for a person with a traumatic brain injury specified in A.R.S. § 36-2939;
Adult therapeutic foster home under 9 A.A.C. 20, Articles 1 and 15;
Level II and Level III behavioral health agencies under 9 A.A.C. 20, Articles 1, 4, 5, and 6;

Rural Substance Abuse Transitional Agencies under 9 A.A.C. 20, Articles 1 and 14; and
Alzheimer's treatment assistive living facility demonstration pilot project as specified in Laws 1999, Ch. 313, § 35 as amended by Laws 2001, Ch. 140, § 1 and Laws 2003, Ch. 76, § 1.

"Case management plan" means a service plan developed by a case manager that involves the overall management of a member's care, and the continued monitoring and reassessment of the member's need for services.

"Case manager" means a person who is either a degreed social worker, a licensed registered nurse, or a person with a minimum of two years of experience in providing case management services to a person who is elderly and physically disabled or has developmental disabilities.

"Contract year" means the period beginning on October 1 and continuing until September 30 of the following year.

"CFR" means Code of Federal Regulations, unless otherwise specified in this Chapter.

"Covered Services" means the health and medical services described in Articles 2 and 11 of this Chapter as being eligible for reimbursement by AHCCCS.

"Home" means a residential dwelling that is owned, rented, leased, or occupied by a member, at no cost to the member, including a house, a mobile home, an apartment, or other similar shelter. A home is not a facility, a setting, or an institution, or a portion of any of these that is licensed or certified by a regulatory agency of the state as a:

Health care institution under A.R.S. § 36-401;

Residential care institution under A.R.S. § 36-401;

Community residential setting under A.R.S. § 36-551; or

Behavioral health service under 9 A.A.C. 20, Articles 1, 4, 5, and 6.

"IHS" means the Indian Health Service.

"JCAHO" means the Joint Commission on Accreditation of Healthcare Organizations.

R9-28-103. Preadmission Screening Related Definitions

Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

"Developmental disability" is defined in A.R.S. § 36-551.

"PAS" means preadmission screening, which is the process of determining an individual's risk of institutionalization at a NF or ICF-MR level of care, as specified in Article 3 of this Chapter.

~~"PASARR" means preadmission screening and annual resident review, which is the 2-step screening process for mental illness and mental retardation as described in A.R.S. § 36-2936. The level I screening is used to identify potentially mentally ill (MI) or mentally retarded (MR) individuals before nursing facility admission. The level II screening is used to make an in-depth assessment of potentially MI or MR individuals referred through the level I screening and to determine the appropriateness of nursing facility care and the need for special services for the MI or MR individual.~~

"Reassessment" means the process of redetermining PAS eligibility for ALTCS services ~~on an annual or periodic basis~~, as appropriate, for all members.

ARTICLE 3. PREADMISSION SCREENING (PAS)

R9-28-306. Reassessments

~~**A.** An assessor shall reassess each ALTCS member to determine continued eligibility. The assessor shall determine continued qualification for ALTCS on the same criteria used for the initial PAS assessment as prescribed in R9-28-303.~~

~~**B.** One or more of the individuals described in R9-28-301 shall conduct each reassessment and may refer the assessment for physician consultant review.~~

~~**C.** An assessor shall conduct a reassessment annually except as follows:~~

~~1. An assessor shall reassess a member every four years when:~~

~~a. A member who is EPD, 80 years of age or older, and has been eligible for at least two consecutive years;~~

~~b. A member who is EPD, eligible for ALTCS at least two consecutive years, and is diagnosed with Alzheimer's disease, dementia, or organic brain syndrome;~~

~~c. A member who is EPD, has been eligible for two or more consecutive years, and has had a skilled nursing facility-two level of care on the last two PAS assessments;~~

~~d. A member who is EPD, has been continuously institutionalized for three or more consecutive years, and has been eligible for ALTCS at least three consecutive years; and~~

~~e. A member who is DD, is age 12 or older, and is eligible for two or more consecutive years scoring 90 points or more.~~

~~2. An assessor shall reassess a member every three years when the member is DD, is age 12 or older, and has been eligible for two or more consecutive years scoring 80 points to less than 90 points;~~

~~3. An assessor shall reassess a member every two years when:~~
~~a. The member is EPD and has been eligible for two or more consecutive years, has had at least three assessments, and has scored 20 or more points on the last assessment;~~
~~b. The member is DD, has severe or profound mental retardation, and has been eligible for two or more consecutive years; and~~
~~c. The member is DD, is age 12 or older, eligible for two or more consecutive years, and has scored 61 points to less than 80 points;~~
~~4. The Administration identifies another population group within the ALTCS program for which a reassessment period greater than one year is appropriate;~~
~~5. In connection with a routine audit of the PAS assessment by the Administration an error affecting eligibility is discovered;~~
~~6. In connection with an audit of the PAS assessment requested by a NF, program contractor, case manager, or other party and Administration determines that continued eligibility is uncertain due to substantial evidence of a change in the member's circumstances or error in the PAS assessment; and~~
~~7. At the request of the Administration's physician consultant.~~

A. An assessor shall reassess an ALTCS member to determine continued eligibility as follows:
1. In connection with a routine audit of the PAS assessment by AHCCCS;
2. In connection with a request by a provider, program contractor, case manager, or other party, and AHCCCS determines that continued eligibility is uncertain due to substantial evidence of a change in the member's circumstances or error in the PAS assessment;
3. Annually when part of a population group identified by the Director as having an increased likelihood of becoming ineligible.

B. The assessor shall determine continued qualification for ALTCS on the same criteria used for the initial PAS assessment as prescribed in R9-28-303.

C. One or more of the individuals described in R9-28-301 shall conduct each reassessment and shall refer the assessment for physician consultant review if a member is:
1. Determined ineligible,
2. In the ALTCS Transitional Program under R9-28-307 and resides in a NF or ICF-MR, or
3. Seriously mentally ill and no longer has a non-psychiatric medical condition.